

REMARKS

This Amendment is submitted in full response to the Office Action dated October 6, 2005, on the merits of the above-identified case and, accordingly, reconsideration of this application is hereby respectfully requested.

As an initial matter, claims 11-17 and 19-43 of the present application have been withdrawn from consideration in response to a previously issued restriction and election requirement. In the outstanding Office Action, claims 1-10 and 18 stand rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over Applicant's U.S. Patent No. U.S. Patent No. 6,629,511. In addition, claims 1 through 8-10 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,573,725 to Griffiths, and, claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Griffiths.

Applicant is appreciative of the Examiner's conscientious review of this application and indication that claim 18 would be allowable if a terminal disclaimer is filed and the claim is rewritten in independent form. In view of the foregoing amendments and the following remarks, Applicant respectfully requests the Examiner's conscientious reconsideration of the same.

To being, a properly executed terminal disclaimer is being filed contemporaneously herewith, thereby eliminating Applicant's U.S. Patent No. 6,629,511 as a basis for the rejection of claims herein, and Applicant has rewritten claim 18 in independent form,

in accordance with the Examiner's indication of allowability. Additionally, each of the claims which currently remain under consideration in the present application are now believed to be in condition for immediate allowance, as discussed in further detail below.

I. Issues Raised by Section 102 and Section 103 Rejections.

Before reviewing the substantive issues with regard to the rejection of claims, the Applicant respectfully points out the well established requirement that:

For a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be identically shown in a single reference. Diversitech Corp. v. Century Steps, Inc., 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

Moreover, this burden on the U.S. Patent and Trademark Office ("PTO") is further compounded by the fact that the Federal Circuit has stated that within the single reference:

[t]he identical invention must be shown in as complete detail as is contained in the patent claim. Richardson v. Suzuki Motor Co. Ltd., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

And, more recently, the Federal Circuit has further expanded this principle to include that:

An anticipating reference must describe the patented subject matter with sufficient clarity and detail to establish that the subject matter existed in the prior art and that such existence would be recognized by persons of ordinary skill in the field of the invention. Crown Operations Int'l, Ltd. v. Solutia Inc., 289 F.3d 1367, 62 USPQ2d 1917, 1921 (Fed. Cir. 2002).

As such, if an Applicant can establish that at least one claimed element is not present or is not identically disclosed in as complete detail in a prior art reference put forth by the PTO, the grounds for rejection pursuant to 35 U.S.C. §102 of each claim comprising that element have been overcome. Furthermore, once the grounds for rejection under 35 U.S.C. §102 have been overcome, the PTO cannot merely turn to 35 U.S.C. §103 as a basis for maintaining a rejection without first meeting the requisite burden. Specifically, the decisions of the Federal Circuit instruct that:

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art [and further that] the mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992).

Recently, this point was further emphasized by the Federal Circuit, which added that:

To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the [Examiner] to show a motivation to combine the references that create the case of obviousness. In other words, the [Examiner] must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed.

This court has identified three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art. Beckson Marine, Inc. v. NFM, Inc., 292 F.3d 718, 63 USPQ2d 1031, 1037 (Fed. Cir. 2002); citing In re Rouffet, 149 F.3d 1350, 1357 (Fed. Cir. 1998).

With this understanding, the Applicant respectfully traverses the rejection of claims in the present Office Action, for the reasons presented below.

A. U.S. Patent No. 4,573,725 to Griffiths.

To begin, the Office Action notes that Griffiths discloses a coupling assembly having first and second components, and a plurality of balls disposed at the distal end of one component which act as locking members. More importantly, and as correctly characterized in the present Office Action, the Griffiths device employs a camshaft which "urges" the balls "into an extended locking orientation."

Furthermore, and looking now to the specification of the Griffiths patent, the Applicant notes that Griffiths discloses:

a linear drive mechanism in the upper assembly lifts an inner cam shaft in the hollow lifting pin to force outward ... **a plurality of balls that are normally recessed** in an annular groove in the cam shaft." (column 1, lines 31-35, **emphasis added**).

The Griffiths specification also provides that:

operation of the reversible motor 36 linearly moves the cam shaft 30 to **either extend the locking balls 28 from their respective radial holes** in the pin 24 **or withdraw the balls into the annular recess** section 34. (column 2, lines 38-41, **emphasis added**).

And further, the specification of the Griffiths patent states that:

the radial holes 78 in the walls of the lifting pin are conical ... **to cause the balls to drop back into the annular recess 34**. (column 3, lines 50-56, **emphasis added**).

Based upon the foregoing, it is clear that Griffiths does not teach an "electromotive release mechanism being structured to normally dispose said locking member into said outwardly extending locking orientation," as recited in independent claim 1 of the present application. To the contrary, Griffiths discloses a device in which the balls are "normally recessed" into the annular groove of the camshaft, and where the camshaft includes radial holes structured to cause the balls to "drop back into" the annular groove or recess. Further, Griffiths discloses a linear drive mechanism structured to move the cam shaft to either extend the balls from their respective radial holes or to withdraw the balls into the annular recess. This is also contrary to a device structured to normally dispose locking members into an outwardly extending locking orientation, as recited in the original claims pending in the present application.

The Applicant respectfully submits that the rejection of claims as anticipated by Griffiths is improper because at least one claimed element is not present or is not identically disclosed in as complete detail by Griffiths. Specifically, Griffiths fails to disclose an "electromotive release mechanism being structured to normally dispose said locking member into said outwardly extending locking orientation" as recited in original independent claim 1 of the present application.

Thus, the Applicant has established that at least one claimed element is not present or is not identically disclosed in as

complete detail by Griffiths, and, as such, the grounds for rejection pursuant to 35 U.S.C. §102 have been overcome. As such, the Applicant respectfully submits that none of the claims as originally submitted and currently under consideration in the present application are anticipated by Griffiths. Additionally, the Applicant submits that these claims are not obvious in view of Griffiths, and that Griffiths teaches away from a device having an "electromotive release mechanism being structured to normally dispose said locking member into said outwardly extending locking orientation," as recited in independent claim 1. Further, in view of the foregoing, the rejection of dependent claim 9 under 35 U.S.C. §103(a) as being unpatentable over Griffiths is now believed to be moot. Therefore, each of the original claims which remain pending and under consideration in the present application is now believed to be in condition for immediate allowance.

The Applicant further submits that the rejection of original dependent claim 10 of the present application as anticipated by Griffiths is improper because at least one other claimed element is not present or is not identically disclosed in as complete detail by Griffiths. Specifically, no where does Griffiths disclose any structure which comprises a "propulsion member," as disclosed in the present application and as recited in original claim 10. Looking to the specification of the present application, in particular, the paragraph beginning on line 10 of page 37, there is disclosed a "propulsion member" structured to exert a separation

force between the first component and the second component sufficient to detach the first and second component from one another. No where does Griffiths disclose or even suggest any structure which acts as such a "propulsion member."

Thus, the Applicant has established that at least one other claimed element is not present or is not identically disclosed in as complete detail by Griffiths, and, as such, the grounds for rejection of original dependent claim 10 pursuant to 35 U.S.C. §102 has been overcome. Therefore, the Applicant respectfully submits that dependent claim 10 as originally submitted in the present application is not anticipated by Griffiths, nor is it obvious in view of Griffiths, and the PTO cannot merely turn to 35 U.S.C. §103 as a basis for maintaining a rejection without first meeting the requisite burden, as above. Therefore, original dependent claim 10 of the present application is, once again, believed to be in condition for immediate allowance.

B. New Claims.

The Applicant further submits that new independent claim 43 which recites an embodiment of the present invention comprising an actuation member with a "propulsion member" disposable between a secured configuration and a separation configuration, wherein the propulsion member is structured to exert a separation force sufficient to cause the first and second components to detach from one another when the "propulsion member" is disposed in said

separation configuration.

As noted above, Griffiths fails to disclose any structure which comprises a "propulsion member," and as such, new independent claim 43, and, therefore, new dependent claims 44-45, which depend therefrom, are believed to be in condition for immediate allowance.

The Applicant asserts that newly presented claims 43-45 are fully supported by the disclosure of the specification of the present application, and do not contain any new matter.

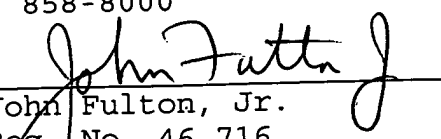
Accordingly, based on the foregoing Amendments and Remarks, the Examiner is respectfully requested to reconsider his position with regard to the present application. Since nowhere in the art is this new, novel and non-obvious invention found, taught, or suggested, it is urged that this case is now clearly in condition for allowance and, accordingly, such action is respectfully solicited.

In the event that any fee may be required by the filing of this paper an Authorization to Charge Fees to **Deposit Account No. 13-1227** is being filed concurrently with this Amendment.

Respectfully submitted,

MALLOY & MALLOY, P.A.  
Attorneys for Applicant  
2800 S.W. Third Avenue  
Historic Coral Way  
Miami, Florida 33129  
(305) 858-8000

By:

  
John Fulton, Jr.  
Reg. No. 46,716

Dated

1-4-06